THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.26125 OF 2000

DATED 29th NOVEMBER, 2006

BETWEEN:

Kolli Tatalu and another.

… Petitioners

AND

The Mandal Revenue Officer, Atchuthapuram Mandal, Visakhapatnam District and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26125 OF 2000

ORDER:

The two petitioners filed the instant writ petition aggrieved by the proceedings, dated 18.04.1994, of Mandal Revenue Officer (MRO), the first respondent herein. They seek a writ of Mandamus declaring the said proceedings as illegal and arbitrary and also seek further declaration that the land admeasuring Acs.5.00 in survey No.168-2-B is not within the purview of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (A.P.Act No.9 of 1977).

The subject land was originally assigned to one B.V.Ramanaiah, an ex-serviceman, in 1961 under provisional patta. He sold the land to the petitioners under registered sale deed in 1972. The MRO issued show cause notice on 01.04.1994 to the petitioners and passed the impugned order. The petitioners contend that as per the orders of the Government in G.O.Ms.No.1117, dated 11.11.1993, land assigned to an ex-serviceman does not attract the condition of inalienability clause of time limit.

Counter affidavit is filed opposing the writ petition. It is stated that the ex-serviceman was given tentative proceedings vide DC.No.717/60/B1, dated 05.05.1961, but the land was actually allotted in 1968, and therefore, the condition of inalienability acts as an encumbrance on the right to sell. The writ petition is also opposed on the ground that the appeal filed by the petitioners is still pending before the Revenue Divisional Officer (RDO).

Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue (Assignment). As submitted by the learned counsel, the appeal before the RDO is still pending. Therefore, it is not proper for this Court to express any opinion on the merits of the case as to whether the ex-serviceman is entitled to dispose of the property after ten years after grant of provisional assignment. This matter has to be decided by the RDO, the appellate authority. Therefore, while ordering *status quo* as on today, the matter is disposed of directing the second respondent to dispose of the appeal within a period of three weeks from the date of receipt of copy of this Order after giving an opportunity of being heard to the petitioners or their counsel.

The writ petition is accordingly disposed of. No costs.

(V.V.S.RAO,J)

29.11.2006.
pln